

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

IN RE:  
CINDY CLAIBORNE,

CASE No: 10-34263-KLP  
Chapter 13

Debtor,

KONDAUR CAPITAL CORPORATION, AS )  
SEPARATE TRUSTEE OF MATAWIN )  
VENTURES TRUST SERIES 2013-3 )

Movant, )

V. )

CINDY CLAIBORNE, Debtor )  
KENNETH J. CLAIBORNE, Co-Debtor )  
CARL M. BATES, Trustee )

Respondents. )

## MOTION FOR RELIEF FROM CO-DEBTOR STAY

**NOTICE TO CO-DEBTOR(s):** If you do not file a written response by the deadline shown, the law provides that the stay protecting you from further action against you by this creditor will automatically terminate [see 11 U.S.C. §1301 (d)].

COMES NOW your Movant, by counsel, and files this Motion for Relief from Co-Debtor Stay to terminate, annul, modify or condition the Co-Debtor Stay pursuant to 11 U.S.C. §1301, and in support thereof states the following:

1. This Court has proper jurisdiction over the matters herein alleged pursuant to 28 U.S.C. §1334. This matter constitutes a core proceeding within the meaning of 28 U.S.C. §157 and a contested matter under Rules of Bankruptcy procedure 4001 and 9014.

Filed by:  
James M. Collins, Esq. VABN: 32460  
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Counsel for Movant File No.: VA-96000283-14

2. On June 16, 2010, debtor filed a petition under Chapter 13 of the United States Bankruptcy Code.

3. Movant is a secured creditor of the Debtor by virtue of the fact that it holds a Note dated January 23, 2004 in the original principal amount of \$106,301.24.

4. Said Note is secured by Deed of Trust on property owned by the debtors located at 3217 Fielding Road, Colonial Heights, Virginia, 23834, more specifically described as:

ALL THAT PARCEL OF LAND IN CITY OF CHESTERFIELD, CHESTERFIELD COUNTY, COMMONWEALTH OF VIRGINIA, AS MORE FULLY DESCRIBED IN DEED BOOK 1881, PAGE 263, ID# 796639036300000, BEING KNOWN AND DESIGNATED AS LOT 15, BLOCK E, SECTION 3, HAPPY HILL FARMS, FILED IN PLAT BOOK 52, PAGE 71, RECORDED 08/31/1984.

BY FEE SIMPLE DEED FROM GERALD D. SHEPPERSON AND SYLVIA A. SHEPPERSON AS SET FORTH IN BOOK 1881 PAGE 263 DATED 06/29/1987 AND RECORDED 07/08/1987, CHESTERFIELD COUNTY RECORDS, COMMONWEALTH OF VIRGINIA

5. Debtor has failed to make post-petition payments on the note and as of the date of filing is due for the (a) April 1, 2014 through July 1, 2014 post-petition payments in the amount of \$717.96 per month; (b) attorney fees and Court costs of \$650.00 and \$176.00 respectively.

6. Kenneth J. Claiborne, is a Co-Debtor of the foregoing debt by virtue of his signature on the Note or Deed of Trust or his ownership interest in said property.

7. Movant is being injured by its inability to proceed against the property securing the indebtedness due to the Co-Debtor stay provided for in 11 U.S.C. §1301.

WHEREFORE, these premises considered, Movant moves this Court to grant it full relief from the Co-Debtor Stay provisions of 11 U.S.C. §1301, or, if full relief cannot be had, to grant such other relief as may seem proper to the Court.

Kondaur Capital Corporation, as Separate  
Trustee of Matawin Ventures Trust Series  
2013-3  
By Counsel

MORRIS | HARDWICK | SCHNEIDER, PLLC

By: /s/ James M. Collins, Esq.

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Attorney for Movant

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Counsel for Movant File No.: VA-96000283-14

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and accurate copy of the foregoing Motion was transmitted to all parties listed on the ECF system and mailed first-class, postage prepaid this 3rd day of July, 2014 to:

Cindy Claiborne  
3217 Fielding Rd  
Colonial Heights, VA 23834  
Debtor

Kenneth J. Claiborne  
3217 Fielding Rd  
Colonial Heights, VA 23834  
Co-Debtor

Richard James Oulton, Esq.  
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Colonial Heights, VA 23834  
Attorney for Debtor

Carl M. Bates, Trustee  
P. O. Box 1819  
Richmond, VA 23218  
Chapter 13 Trustee

/s/ James M. Collins, Esq.  
James M. Collins, Esq.